



House of Representatives

General Assembly

File No. 217

February Session, 2000

House Bill No. 5852

House of Representatives, March 23, 2000

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Concerning Leased Motor Vehicles.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of public act 99-278 is repealed and the
2 following is substituted in lieu thereof:

3 As used in [this act] public act 99-278 and sections 1 to 5, inclusive,
4 of this act, unless the context otherwise requires:

5 (1) "Motor vehicle" means a motor vehicle of the type and kind
6 required to be registered and titled under chapter 246 of the general
7 statutes, except a recreational vehicle, moped, motorcycle powered by
8 a motor with a displacement of fifty cubic centimeters or less or mobile
9 home.

10 (2) "Retail lessee" means a person who executes a retail lease
11 agreement for a motor vehicle from a retail lessor.

12 (3) "Retail lessor" means a person who regularly engages in the

13 business of selling or leasing motor vehicles and who offers or
14 arranges a lease agreement for a motor vehicle, including any agents or
15 affiliates acting on behalf of the retail lessor.

16 (4) "Lease agreement" means a written agreement entered into in
17 this state on or after July 1, 2000, for the transfer from a retail lessor to
18 a retail lessee of the right to possession and use of a motor vehicle
19 primarily for personal, family or household use, in exchange for
20 consideration for a scheduled term exceeding four months, whether or
21 not the retail lessee has the option to purchase or otherwise become the
22 owner of the vehicle at the expiration of the agreement. "Lease
23 agreement" does not include an absolute sale, a sale pending approval,
24 or a retail instalment sale.

25 (5) "Adjusted capitalized cost" means the capitalized cost less any
26 capitalized cost reduction payment made by the retail lessee at the
27 inception of the lease agreement and any net trade-in allowance
28 granted by the retail lessor.

29 (6) "Irregularity" means the amount or timing interval varies by
30 more than twenty-five per cent from the amount or timing interval
31 most commonly specified under the lease agreement.

32 (7) "Ending balance" means the purchase option price at the end of
33 the lease term.

34 (8) "Lease amount financed" means the adjusted capitalized cost
35 minus:

36 (A) Any lease finance charge included in it; and

37 (B) Any advance lease payment or nonrefundable security deposit
38 due on or before delivery of the motor vehicle.

39 (9) (A) "Lease finance charge" means the rent charge plus any other
40 charge payable directly or indirectly by the retail lessee and imposed

41 directly or indirectly by the retail lessor as an incident to, or condition
42 of, the lease agreement.

43 (B) "Lease finance charge" includes:

44 (i) An origination or acquisition charge;

45 (ii) A charge for assigning, servicing or carrying the lease;

46 (iii) Broker fees;

47 (iv) A disposition or pick-up charge due on lease termination;

48 (v) Taxes unique to leases.

49 (C) "Lease finance charge" does not include:

50 (i) Charges of a type payable in a cash purchase, such as official fees
51 for sales or use taxes, registration or title, or for an extended warranty
52 or service contract;

53 (ii) Charges for late payment or other delinquency or default;

54 (iii) A refundable security deposit;

55 (iv) Premiums for insurance;

56 (v) Charges for additional authorized mileage;

57 (vi) An application fee charged to all applicants whether or not a
58 lease agreement is consummated;

59 (vii) Fees prescribed by law that actually are or will be paid to
60 public officials for determining the existence of or for perfecting,
61 releasing or satisfying a security interest.

62 (10) "Lease rate" means the nominal annual percentage rate that
63 reflects the amortization of the lease amount financed to the ending

64 balance over the scheduled term of the lease, calculated according to
65 the actuarial method of allocating base periodic payments made on an
66 obligation between the lease finance charge and the lease amount
67 financed, pursuant to which a payment is applied first to the accrued
68 lease finance charge and the balance is applied to the unpaid lease
69 amount financed.

70 (11) "Good faith" means honesty in fact and observance of
71 reasonable standards of fair dealing in the trade of leasing motor
72 vehicles.

73 Sec. 2. (NEW) A lease agreement or duty in a lease agreement
74 imposes an obligation of good faith in its performance and
75 enforcement.

76 Sec. 3. (NEW) In any civil action concerning enforcement of a lease
77 agreement:

78 (1) If the trier of fact finds the lease agreement or any of its terms to
79 be unconscionable, the court may refuse to enforce the lease
80 agreement, may enforce the lease agreement without the
81 unconscionable term or may limit the application of an unconscionable
82 term to avoid an unconscionable result;

83 (2) If the trier of fact finds that the lease agreement or a term in the
84 lease agreement was induced by unconscionable conduct or that
85 unconscionable conduct has occurred in the collection of a claim
86 arising from the lease, the court may grant appropriate relief;

87 (3) If the trier of fact finds in favor of a retail lessee due to an
88 unconscionable action by the retail lessor, the court shall award
89 reasonable attorney's fees to the retail lessee.

90 Sec. 4. (NEW) (a) A term not negotiated for, that a reasonable retail
91 lessee involved in a leased motor vehicle transaction would not expect
92 to find in a lease agreement, is not enforceable.

93 (b) A term in a lease agreement that attempts to exclude or modify
94 an implied warranty of merchantability or fitness or to exclude or
95 modify a remedy for breach of such warranties is not enforceable.

96 Sec. 5. (NEW) Prior to a retail lessee signing a lease agreement, with
97 a retail lessor, the retail lessor shall make the disclosures specified in
98 the Consumer Credit Protection Act (15 USC 1667), as amended from
99 time to time, and Regulation M, 12 CFR Part 213, as amended from
100 time to time, promulgated by the Board of Governors of the Federal
101 Reserve System pursuant to said act, regardless of whether the lease
102 agreement is subject to said act.

GL Committee Vote: Yea 15 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Judicial Department

Municipal Impact: None

OLR Bill Analysis

HB 5852

AN ACT CONCERNING LEASED MOTOR VEHICLES.**SUMMARY:**

This bill provides that a retail motor vehicle lease imposes an obligation of good faith in its performance and enforcement. Similarly, under the bill, performing or enforcing a duty under such a lease also imposes an obligation of good faith. The bill defines "good faith" to mean honesty in fact and observance of reasonable standards of fair dealing in the motor vehicle leasing trade. It applies to leases for motor vehicles for a term exceeding a few months signed on or after July 1, 2000 primarily for personal, family, or household uses.

The bill makes unenforceable any provision in such a lease that:

1. was not negotiated and that a reasonable retail lessee would not expect to find in the agreement; or
2. attempts to exclude or modify an implied warranty of merchantability or fitness or a remedy for breach of such warranties.

The bill authorizes the trier of fact (a judge or jury, as the case may be), if it finds a lease or any of its term to be unconscionable, to refuse to enforce the lease or agreement without the term or to limit its application to avoid an unconscionable result. If the trier of fact finds that the agreement or one of its terms was induced by unconscionable conduct, or that unconscionable conduct has occurred in the collection of a claim arising from the lease, the court may grant appropriate relief. If the trier of fact finds in favor of the lessee due to the lessor's unconscionable behavior, the court must award reasonable attorney's fees to the lessee.

The bill requires lessors to disclose to consumers, before the consumer signs the lease, the disclosures required by the federal Consumer

Credit Protection Act and Regulation M regardless of whether it is subject to the act.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Federal Law

The federal act applies to leases for the use of personal property, for more than four months, and for a total contractual obligation of \$25,000 or less, primarily for personal, family, or household purposes. The act requires lessors to disclose:

1. a brief description of the property;
2. the amount the lessee must pay at the start of the contract;
3. the amount the lessee must pay for official fees, registration, certificate of title, or license fees or taxes;
4. the amount and description of other charges the lessee must pay, other than the periodic payments, and whether the lessee is liable for the differential, if any, between the anticipated fair market value of the property and its appraised value at the end of the lease;
5. a statement of the amount of, or a method of determining, liabilities the lease imposes on the lessee at the end of the lease and whether the lessee has the option to purchase;
6. a statement identifying all express warranties and guarantees made by the manufacturer or lessor;
7. a brief description of the insurance provided or paid for by the lessor or required of the lessee;
8. a description of the security interest kept by the lessor;
9. the number, amount, and due dates of lease payments and their total amount;
10. if the lease makes the lessee responsible for the fair market value of the property at the end of the lease term, the fair market value at the start of the lease, the aggregate cost of the lease, and the difference between the two; and
11. a statement of the conditions under which both the lessee and the lessor may terminate the lease before the end of its term and the

amount, or method of determining, the amount of any penalty or other charge (15 USC § 1667a).

Regulation M implements the federal statute. It includes model disclosure forms (12CFR Part 213).

COMMITTEE ACTION

General Law Committee

Joint Favorable Report

Yea 15 Nay 0